

- (C) If a vehicle is no longer listed in the blue book, the owner's estimate of the value of the vehicle shall be accepted, unless the county has reason to believe the estimate is incorrect. In that case, and if it appears that the vehicle's value will affect eligibility, the owner shall obtain an appraisal or produce other evidence of its value, such as a tax assessment or a newspaper advertisement which indicates the amount for which like vehicles are being sold.
 - (D) If the vehicle is in less than average condition, due to body damage or inoperability or the owner alleges that the blue book value does not apply to the vehicle, he/she shall be given the opportunity to obtain verification of the true value from a reliable source.
 - (E) Verification of the value of licensed antique, custom made, or classic vehicles shall be required if the county is unable to make an accurate appraisal.
- (3) Counties shall individually determine the excess fair market value of nonexempt licensed vehicles by subtracting \$4650 from the estimated fair market value determined in subsection (2) above.
 - (4) All nonexempt licensed or unlicensed vehicles shall individually be evaluated for equity value. Equity value shall be determined by subtracting any encumbrance against the vehicle from the estimated fair market value determined in subsection (2) above.
 - (5) Counties shall select the lesser of the excess fair market value determined in subsection (3) above or the equity value determined in subsection (4) above for each vehicle and include the amount determined to be the least in the property reserve, except as modified by subsection 6 below.
 - (6) Of the vehicles with equity values determined to be the least amount in subsection (5) above, the county shall subtract \$1500 from the one vehicle with the greatest equity value and include that amount in the property reserve.
- (m) The following items of personal property shall be exempt.
 - (1) Personal items and household goods to furnish and equip a home, including but not limited to jewelry, cameras, camcorders, tools and power tools, musical instruments, recreational equipment, cellphones, bicycles, computers, televisions, stereos, hobby items and collections shall be exempt.
 - (2) Personal property, to the extent that it is directly related to the maintenance or use

of a vehicle exempt under subsections (m) (1) (A), (B) or (D) above, shall be exempt.

- (3) Stock in a water company not appurtenant to the land in the amount necessary for agricultural purposes shall be exempt.
- (4) Loans shall be exempt when there is a written agreement signed and dated by the lender and the MFBU member as parties to the agreement that clearly specifies:
 - (A) the obligation of the MFBU member to repay the loan; and
 - (B) a repayment plan which provides for installments of specified amounts that continue on a regular basis until the loan is fully repaid.
- (5) The cash surrender value of life insurance policies shall be exempt.
- (6) The cash value of KEOGH plans which involve a contractual relationship with individuals who are not MFBU members, pension plans or pension funds shall be exempt.
- (7) Real and personal property purchased with funds received under Title I or Title II of the Economic Opportunity Act when such funds were excluded from consideration as income or property. This exclusion does not extend to income or profits from such property.
- (8) Personal property (except cash, nonbusiness financial institution accounts and other nonbusiness financial instruments where cash is available upon demand) which annually produces any income shall be exempt, even if only used on a seasonal basis. The full value of deeds of trust, promissory notes, mortgages, installment contracts or agreements shall be exempt if interest income is being produced.
- (9) Personal property which is essential to the employment or self-employment of a MFBU member shall be exempt.
 - (A) Property may be, but is not limited to, tools of a tradesman or equipment of a farmer.
 - (B) Property of a business, such as funds in a checking or savings account, whether maintained exclusively for business purposes or commingled with nonexempt funds, shall be exempt.
 - (C) Counties shall accept the statement of the applicant/beneficiary whether the property, including financial reserves, are essential to the employment

or self-employment of the individual and are necessary to produce either current or future income.

- (I) If an allegation is made that some or all of the funds contained in a personal account are those of the business of a self-employed MFBU member, then verification must be provided to demonstrate that some or all of the funds in the account are receipts of the business and verification must be provided that business expenses have been paid out of that account as well.
- (D) When an MFBU member ceases to be self-employed in farming, property which was essential to this self-employment will continue to be exempt for a period of one year from the date of termination.
- (10) Tools of trade, equipment and materials including stocks and inventories which will assist the MFBU member to implement and continue his/her approved plan of employment.
 - (A) The county shall determine if the items will assist the individual in his/her approved plan of employment.
 - (B) An approved plan of employment shall be the county's determination that:
 - (I) The MFBU member has training, education, or background in the chosen occupation; and
 - (II) There are no insurmountable physical barriers which render the individual incapable of returning to his/her chosen occupation.
- (11) Any cash savings and interest accumulated pursuant to the Independent Living Program (ILP) written transitional independent living plan and retained by a child who is 16 years of age or older and is participating in the ILP. There is no limit to the amount that may be retained under this subsection.
- (12) A Native American's interest in land held in trust by the United States Government is exempt.
- (n) In addition to those payments that are exempt under Article 9 as amended, the following payments shall also be considered exempt.
 - (1) The amount of retroactive corrective aid is exempt for only the month of receipt and the following calendar month.
 - (2) Lump-sum retroactive SSI/SSP payments shall be exempt.

- (3) Any federal, state or local Earned Income Tax Credit (EITC) payment received by any MFBU member shall be exempt for 12 months.
 - (A) If the pay stub does not indicate an EITC advance payment was received, no further verification is required.
 - (B) If the amount of the EITC advance payment is not clear from viewing the paystub, the county shall obtain clarification from the individual and contact the employer if necessary to obtain the amount.
- (4) Income of students and self-employed individuals, which is received less frequently than monthly, shall be considered exempt property beginning with the month following the month of receipt. Those funds shall continue to be exempt for the period of time during which the funds are intended to be utilized by the individual, or until the month in which the next payment is received from the same source that is intended for the same purpose, whichever is shorter.
- (5) Relocation assistance or real property acquisition benefits paid by a public agency to an individual who has been relocated as a result of a program of area redevelopment, urban renewal, freeway construction or any other public development, involving demolition or condemnation of existing house.
- (6) Payments for lost, stolen, damaged, or destroyed property shall be exempt for the month of receipt and the month following the month of receipt.
- (7) Payments made under PL 100-383, Section 105(f)(2), to U.S. citizens and permanent resident aliens of Japanese ancestry who were interned during World War II or their survivors; and payments received as restitution made to Aleut residents of the Pribilof and Aleutian Islands as a result of being relocated by the United States government and for injustices suffered while under United States control during World War II shall be exempt.
- (8) Disaster and emergency assistance payments pursuant to the Disaster Relief Act of 1974 [as amended by PL 100-707, Section 105(i)], provided by federal, state, or local governments or disaster assistance organizations shall be exempt.
- (9) Payments received from the Agent Orange Settlement Fund or any other fund established to settle liability claims by veterans or survivors of deceased veterans concerning Agent Orange under the Agent Orange Compensation Act of 1989 (PL 101-201, PL 101-239, and PL 101-329, Section 10405).
- (10) Payments received under the Radiation Exposure Compensation Act shall be exempt pursuant to the Radiation Exposure Compensation Act of 1990 [PL 101-

426, Section 6(h)(2)].

- (11) Payments to victims of Nazi persecution shall be exempt pursuant to PL 103-286, Section 1.
- (12) Allowances, earnings and payments to individuals in programs specified under the Job Training Partnership Act of 1982 (PL 97-300) shall be exempt, with the following exception. Earnings from the JTPA on-the-job training program shall be exempt if the JTPA participant is a dependent child for purposes of Section 1931(b) program [PL 97-300, Section 142(b) and PL 99-198]. Earnings from all other on-the-job training programs shall not be exempt.
- (13) Payments or allowances made under any federal laws, except benefits under a state program funded under Part A of Title IV of the Social Security Act, for the purpose of energy assistance, such as the Low Income Home Energy Assistance Act (LIHEAA), or from Housing and Urban Development (HUD) or the Farmers Home Administration (FmHA) programs shall be exempt. One-time assistance payments or allowances under federal or state laws for weatherization or emergency repair or replacement of heating or cooling devices are exempt.
- (14) Financial assistance provided under any of the following shall be exempt:
 - (A) A program funded in whole or in part under Title IV of the Higher Education Act (PL 102-325).
 - (B) Bureau of Indian Affairs student Assistance program (PL 102-325).
 - (C) Title XIII, Indian Higher Education Programs, Tribal Development Student Assistance Revolving Loan Program (Tribal Development Student Assistance Act).
 - (D) To the extent the financial assistance provided under the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C., Section 2301-2466d) is used or earmarked for future use to meet attendance costs for a student attending school on at least a half-time basis, as defined by the institution. Attendance costs are defined as tuition, fees, rental or purchase of required equipment, materials, supplies, books, transportation, dependent care and miscellaneous personal education expenses.
- (15) Allowances, earnings, and payments made under Title I of the National and Community Service Act (NCSA) of 1990 shall be exempt (PL 101-610, Section 177(d)). The NCSA includes programs under the Serve America, American Conservation and Youth Corps, and National and Community Service subtitles.

TN No. 98-005A
Supersedes
TN No. _____

Approval Date: AUG 27 2001 Effective Date: January 1, 1998

- (A) Earnings of individuals, except dependent household members under 19 years of age participating in on-the-job training under Title I programs shall not be exempt, consistent with the provisions of subsection (m)(12) above.
- (B) Examples of programs under Title I of the NCSA include: the Higher Education Service-Learning Program; the AmeriCorps umbrella program, including the National Civilian Community Corps and the Summer for Safety programs; and the School-to-Work Opportunities Program.
- (16) Allowances paid under PL 104-204 to children of Vietnam Veterans who are born with spina bifida shall be exempt.
- (17) Payments made from any fund established pursuant to the settlement in the case of Susan Walker v. Bayer Corporation (N.D. Ill.) shall be exempt.
- (18) Austrian social insurance payments based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act are exempt to the extent they are kept identifiable. Austrian social insurance payments which are not based on wage credits granted under Paragraphs 500-506 are included in the property reserve in the month following the month of receipt.
- (19) Court-ordered reimbursements made to Quilling v. Belshè class members shall be exempt property in the month of receipt and for three calendar following the month of receipt. The applicant/beneficiary shall provide any verification sufficient to establish that the payment or remaining funds are the result of a claim filed under Quilling v. Belshè. If verification is not available the county shall contact the Department of Alcohol and Drug Programs to verify the applicant's/beneficiary's statement that a Quilling reimbursement was made, and the date and amount of the reimbursement.
- (o) In addition to the those payments that are exempt under Article 9 as amended, the following payments to Native Americans shall also be exempt. Counties shall exempt payments under whichever subsection provides the greatest advantage to the MFBU.
 - (1) Distributions from a Native corporation established pursuant to the Alaskan Native Claims Settlement Act paid to an MFBU, individual Native or descendent of a Native shall be exempt. Distributions include cash (including cash dividends on stock received from a Native corporation) to the extent it does not exceed \$2,000 total per person per anum, stock, a partnership interest, land or interest in land, and interest in a settlement trust.
 - (2) Any funds distributed on a per capita basis or held in trust for members of any

Native American tribe under Public Law (PL) 92-254 or PL 94-540 shall be exempt.

- (3) Funds of Native American tribes including interest earned from, investment income derived from and initial purchases made with such funds when the funds have been:
 - (A) Distributed by the Secretary of the Interior on a per capita basis; or
 - (B) Held in trust by the Secretary of the Interior; or
 - (C) Individually owned trusts or restricted lands.
- (4) Funds or assets of, or payments to Native American tribal members or Alaska Natives shall be excluded as property if specifically exempt by any other federal law. These exemptions include, but are not limited to:
 - (A) Payments received under the Alaska Native Claims Settlement Act (PL 92-203, Section 29 and PL 100-23, Section 15 or the Sac and Fox Indian claims agreement (PL 94-189, Section 8);
 - (B) Payments received by Indian tribal members under PL 94-114, Section 6, regarding submarginal land held in trust by the United States. The following tribes may benefit from this provision.
 - (I) The Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin;
 - (II) Blackfeet Tribe;
 - (III) Cherokee Nation of Oklahoma;
 - (IV) Cheyenne River Sioux Tribe;
 - (V) Crow Creek Sioux Tribe;
 - (VI) Lower Brule Sioux Tribe;
 - (VII) Devils Lake Sioux Tribe;
 - (VIII) Fort Belknap Indian Community;
 - (IX) Assiniboine and Sioux Tribes;

- (X) Lac Corte Oreilles Bank of Lake Superior Chippewa Indians;
- (XI) Keweenaw Bay Indian Community;
- (XII) Minnesota Chippewa Tribe;
- (XIII) Navajo Tribe;
- (XIV) Oglala Sioux Tribe;
- (XV) Rosebud Sioux Tribe;
- (XVI) Shoshone-Bannock Tribe; and the
- (XVII) Standing Rock Sioux Tribe.
- (C) Payments received from the disposition of funds to the Grand River Bank of Ottawa Indians shall be exempt pursuant to PL 94-540.
- (D) Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission (PL 95-433, Section 2) shall be exempt.
- (E) Payments made to the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet, or any Indian household or member thereof, pursuant to the Maine Indian Claims Settlement Act of 1980 shall be exempt pursuant to PL 96-420, Section 9(c).
- (F) Payments of relocation assistance to members of the Navajo and Hopi Tribes shall be exempt pursuant to PL 93-531, Section 22.
- (G) Funds that meet the criteria in subsection (I) below shall be exempt.
 - (I) The funds were appropriated to satisfy judgements of the Indian Claims Commission or Claims Court pursuant to PL 93-134, PL 97-458 and PL 98-64 which are any of the following:
 - (i) Distributed on a per capita basis, not exceeding \$2,000, or held in trust according to an approved plan.
 - (ii) As of January 12, 1983, were to be distributed on a per capita basis, up to \$2,000, or held in trust according to a plan approved by Congress prior to January 12, 1983.

- (iii) Were distributed according to a plan approved by Congress after December 31, 1981, but prior to January 12, 1983, and any purchases made with such funds; or
 - (iv) Are per capita payments, not exceeding \$2,000 from funds which are held in trust by the Secretary of the Interior (trust fund distribution).
- (II) For purposes of subsection (G), the \$2,000 limit on per capita shares applies to each payment made to each household member.
- (III) Purchases made with payments described in subsection (G) which were distributed between January 1, 1982 and January 12, 1983 shall be exempt property to the extent exempt funds were used to make such purchases.
- (H) Interest of individual Indians in trust or restricted lands shall be exempt property only, and any income from such interests shall be countable property in the month following the month of receipt pursuant to PL 93-134, PL 97-458 and PL 103-66, Section 13736.
 - (I) For purposes of subsection (H), interests include the individual's right to, or legal share of, the trust or restricted land and any resulting income.
 - (II) For purposes of this section, the exemption applies to each individual MFBU member who holds an interest or legal share.
- (I) Assistance received under the Indian Child Welfare Act child and family service grant programs on or near reservations (PL 95-608). These programs include, but are not limited to: family assistance, day care, after school care, respite care, recreational activities, home improvement, employment of domestic relations and child welfare personnel, and education and training.
- (J) Payments made to the following: Turtle Mountain Band of Chippewas, Arizona (PL 97-403); Blackfeet, Grosventre, Assiniboiné tribes, Montana, and the Papago Tribe, Arizona (PL 97-408); Red Lake Band of Chippewa Indians (PL 98-123, Section 3); White Earth Band of Chippewa Indians, Minnesota, pursuant to the White Earth Reservation Land Settlement Act of 1985 (PL 99-264, Section 16); and Saginaw Chippewa Indian Tribe of Michigan [(PL 99-346, Section 6(b)(2))].
- (K) Per capita and interest payments made to members of the Assiniboiné

Tribe of the Fort Belknap Indian Community and the Fort Peck Indian Reservation, Montana (PL 98-124, Section 5).

- (L) Funds paid to heirs of deceased Native American under the Old Age Assistance Claims Settlement Act, except for per capita share exceeding \$2,000 (PL 98-500, Section 8).
 - (M) Funds distributed per capita of held in trust for the Chippewas of Lake Superior and the Chippewas of the Mississippi [PL 99-146, Section 6(b) and PL 99-377].
 - (O) Funds, assets or income from the trust fund established pursuant to the Puyallup Tribe of Indians Settlement Act of 1989 [PL 101-41, Sections 10(b) and (c)].
 - (P) Payments made to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole Indians of Florida to satisfy the judgments of the Indians Claims Commission, except for per capita payments exceeding \$2,000 (PL 101-277).
 - (Q) Payments, funds, distributions or income under the Seneca Nation Settlement Act of 1990 [PL 101-503, Section 8(b)].
- (p) Exempt funds, that are otherwise exempt for a limited period of time, shall be exempt for an unlimited period of time when kept in a separate account and not commingled with other nonexempt funds.
- (q) Funds which are to be apportioned over time shall be exempt property for the period of time over which they have been prorated as nonexempt income if the funds have been commingled with other nonexempt funds.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: California

ELIGIBILITY UNDER SECTION 1931 OF THE ACT

METHODOLOGIES FOR TREATMENT OF RESOURCES
THAT ARE NO MORE RESTRICTIVE THAN THOSE OF THE AFDC PROGRAM
AS IT EXISTED ON ~~JUNE 16, 1996~~ JULY 16, 1996 PTD
(The Same As Or More Liberal Than AFDC)

§50401. Property Evaluation.

(a) After determining the appropriate Medi-Cal program for the members of the MFBU, the county department shall evaluate the property holdings of the MFBU to determine:

(1) Property to be included in determining eligibility.

(2) The value of the included property.

(3) Whether the total value of the included property exceeds the property reserve limits specified in Section 50420.

(b) After determining the value of all property to be included in the property reserve of the MFBU, the value shall be waived for a pregnant woman and/or infant if those applicants or beneficiaries are found to be eligible under the 200 Percent program as provided in Section 50262(a).

(c) When determining eligibility under the Percent programs, as described under Sections 50262.5 and 50262.6, property shall be disregarded.

TN No. 98-005A

Supersedes

TN No. _____

Approval Date: AUG 27 2001 Effective Date: JANUARY 1, 1998

§50403. Treatment of Property: Separate and Community Property.

- (a) The separate property and share of community property of any person included in the MFBU shall be considered in determining Medi-Cal eligibility.
- (b) A spouse's share of community property is always one-half of the current total community property.
- (c) For purposes of establishing eligibility, an interspousal agreement entered into pursuant to Welfare and Institutions Code Section 14006.2 shall:
 - (1) be written, dated and signed by both spouses or by a person who has the legal authority to enter into such agreements on behalf of either spouse;
 - (2) list each asset being transmuted;
 - (3) clearly designate the owner of each asset;
 - (4) list the value of each asset; and
 - (5) evidence an equal division of the nonexempt community property.
- (d) If an interspousal agreement does not comply with (c)(4) of this section, the county shall request additional information from the applicant, or other party mentioned in (c)(1) to supplement the agreement and verify the methodology used to value assets. Such information may be necessary pursuant to verification requirements contained in Article 4 of this Division.
- (e) If an interspousal agreement evidences an unequal division of the nonexempt community property, and the applicant received the smaller share of such property under the agreement, the county shall determine whether the transfer was for adequate consideration in accordance with Sections 50408 and 50409.
 - (1) If the county determines that the transfer was not for adequate consideration and was made in order to establish eligibility or to reduce the share of cost, the county shall give the applicant's spouse the option of reconveying to the applicant in accordance with Section 50411(d)(1) an amount of property sufficient to provide each spouse with equal shares of the total nonexempt community property identified in the interspousal agreement.
 - (2) If the applicant's spouse does not reconvey property pursuant to (e)(1) above, the county shall assess a period of ineligibility for the applicant in accordance with Section 50411.

TN No. 98-005A

Supersedes

TN No. _____

Approval Date: AUG 27 2001 Effective Date: January 1, 1998

§50404. Owner of Property.

- (a) The owner of property, for Medi-Cal eligibility purposes, shall be the person who holds legal title to the property unless otherwise specified in these regulations.
- (b) Ownership of property may be vested in one individual or shared with other individuals.
- (c) Notwithstanding (a), a person shall be the owner of separate property designated in a written interspousal agreement.

§50405. Contracts of Sale.

- (a) Property purchased under a signed contract of sale by the applicant or beneficiary shall be included in the property reserve of the applicant or beneficiary.
- (b) Property being sold by the applicant or beneficiary under a signed contract of sale shall not be considered the property of the applicant or beneficiary. The interest payments received under the contract of sale shall be unearned income. The principal payments received under the contract of sale shall be property.
- (c) Property being purchased or sold under a verbal or unsigned contract of sale shall be considered the property of the seller until the sale is complete.

TN No. 98-005A

Supersedes

TN No. _____

Approval Date: AUG 27 2001 Effective Date: January 1, 1998

§50406. Conversion or Transfer of

Conversion or transfer of property may affect eligibility. Sections 50407 through 50411 describe methods of converting or transferring property, and the effect of each method on eligibility.

TN No. 98-005A
Supersedes
TN No. _____

Approval Date: AUG 27 2001 Effective Date: January 1, 1998